

OFFICE OF THE GOVERNOR
STATE OF MONTANA

BRIAN SCHWEITZER
GOVERNOR



JOHN BOHLINGER
LT. GOVERNOR

June 18, 2012

The Honorable Ken Salazar
Secretary
U.S. Department of Interior
1849 C. Street NW
Washington, D.C. 20240

Re: Proposed Rules on Hydraulic Fracturing

Dear Secretary Salazar:

I am concerned about the proposal by the Bureau of Land Management to adopt rules regulating hydraulic fracturing activities on lands under that agency's jurisdiction. As you know, hydraulic fracturing and the associated technology of horizontal drilling are of critical importance to the ongoing success of oil shale development in Montana and in surrounding states. Since 2000, over 800 new horizontal Bakken wells have been fracture stimulated in Montana using modern high volume techniques. We have had no cases of groundwater contamination reported, discovered, or even suspected. Nevertheless, Montana was an early adopter of hydraulic fracturing regulations; other states with significant hydraulic fracturing activities are doing the same. Our rules were adopted to address issues of concern to our state and to design a straightforward and predictable process so the industry could rely on a consistent regulatory approach. Our rules were one of the first to address full disclosure of all hydraulic fracturing chemicals, including those considered to be non-hazardous, and one of the first states to require pre-stimulation design information as part of the drilling permit process.

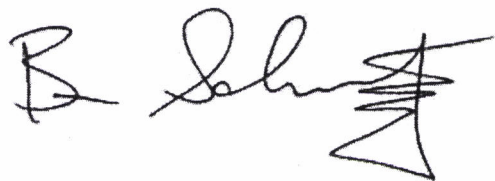
While I can appreciate BLM's role in regulating industry activities on public land, I believe BLM is well advised to accept the regulatory process developed by each state and limit implementation of a new regulatory scheme to the jurisdictions and states that have not already adopted rules. Hydraulic fracturing is a customized well completion technique that depends for its success on the knowledge of specific parameters unique to the geologic setting in which it is conducted. Montana's regulators use that specific knowledge to effectively regulate activities in the state. BLM could certainly take advantage of that existing state expertise and concentrate its own resources to deal with only those jurisdictional arenas not currently covered.

The proposed BLM rules cover a highly technical and complex process. BLM's rules seem to equate a regulatory approach for our conventional shallow vertical gas wells to the long reach deep horizontal shale gas wells in other parts of the country. The proposed casing, testing and logging requirements unnecessarily burden these low-risk gas wells. Some of the rules proposed appear to borrow from the concepts in other federal regulatory programs for injection wells that are not appropriate in regulating producing wells. Regional variations aside, the duplicative regulatory process proposed is not likely to help BLM deal with its already time-consuming permit process.

Secretary Salazar
June 18, 2012
Page two

The State of Montana is opposed to the adoption of these rules. I believe the Department and BLM could have more effectively engaged state regulators in the process of developing the draft rules and should do so now. Placing a hold on the adoption of the rules and opening a dialogue with the affected states is my preferred course. At the very least, the comment period should be extended to allow a more complete evaluation of the effects of the proposed rules on both states and the regulated community.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Schweitzer", with a stylized, angular flourish at the end.

Brian Schweitzer
Governor

David A. Galt
Executive Director

OFFICERS

Kevin Sandstead, President
Phillips 66

Colby Branch, Vice President,
Upstream, Crowley Fleck

Dexter Busby, Vice President,
Downstream, MT Refining Co.

Mac McDermott, Treasurer
MCR, LLC

BOARD OF DIRECTORS

Michael Ashton
ExxonMobil

Bill Ballard
Ballard Petroleum Holdings LLC

Dave Ballard
Ballard Petroleum Holdings LLC

Kent Beers
Oasis Petroleum

Brian Cebull
Nance Resources

Cole Chandler
NFR Energy LLC

Greg Dover
Denbury Resources, Inc.

Andrew Dunleavy
Devon Energy Corp.

Bob Fisher
Augustus Energy Partners, LLC

John Fitzpatrick
NorthWestern Energy

Leo Heath
Montana Tech

Dan Hickman
Golden Stone Resources

Terry Holzwarth
Sequel Energy

Pat Kimmel
CHS Inc.

Jack King
Hancock Enterprises

Dana Leach
Montana Refining Company

Monica Mainland
ExxonMobil Billings Refinery

Perry Pearce
ConocoPhillips

Ron Santi
SM Energy Company

Dave Schaenen
DLD Enterprises

Keith Tiggelaar
WBI Energy, Inc.

Dana Warr
Fidelity Exploration & Production

Stephanie Williams
Phillips 66

September 7, 2012

Director, Bureau of Land Management
Attn: Regulatory Affairs
20 M Street SE
Room 234 LM
Washington DC 20003

RE: RIN 1004-AE26, Oil and Gas: Well Stimulation, Including Hydraulic Fracturing on Federal and Indian Land, proposed rule published in the Federal Register on May 11, 2012 (77 Fed. Reg. 27691)

Dear Mr. Pool:

On behalf of the members of the Montana Petroleum Association (MPA) we submit the following comments in response to the Bureau of Land Management's (BLM) proposed rule on oil and gas for well stimulation and hydraulic fracturing (HF). MPA is a voluntary, nonprofit trade association whose 169 members include oil and natural gas producers, gathering and pipeline companies, petroleum refineries, service providers and consultants.

MPA supports and incorporates by reference comments filed by the Independent Petroleum Association of America and the Western Energy Alliance. These comments provide a detailed breakdown of the economic impact of the rule on the industry, a legal analysis of your rule on the impacts to state water rights, and an extensive list of concerns industry members have with the proposed rule.

Federal mineral ownership in Montana amounts to 37.7 million acres, nearly 40% of Montana's mineral estate. As such federal land policy has significant impact on Montana, its economy and adjacent private lands. Drilling permits on federal lands in Montana is down from 206 in 2003, to 26 in 2011. Burdensome and unnecessary regulations figure prominently in that reduction. This rule adds another redundant regulatory regime that will result in additional cost and delay. This rule compounds that problem by creating an unjustified federal regulatory burden in addition to the existing state regulation of hydraulic fracturing in Montana.

In addition to points already included in the IPAA and WEA comments, the Montana Petroleum Association offers the following comments:

On August 26, 2011, rules promulgated by the Montana Board of Oil and Gas Conservation (MBOGC) requiring pre-approval and pre-disclosure of fluids used in a hydraulic fracture (HF) treatment became effective. The HF notice is tied to the drilling permit. Montana was one of the first states to require a disclosure before the treatment. Montana's rules also allow the operator to use Frac Focus for the complete disclosure of chemicals after the treatment. Furthermore, the rules require testing to ensure well integrity

before the HF treatment. HF is regulated in Montana and the rules were promulgated by working with industry to develop a regulatory oversight that ensures protection of groundwater resources, public health, and public disclosure of chemicals in a streamlined fashion. In contrast, BLM's rule is excessive and requires redundant actions by the operator that simply result in increased cost without additional benefit. At a time when our government spending is out of control the BLM requirement to create a new reporting system when one already exists is offensive to MPA and the American taxpayer.

In 1992, during the Clinton Administration, the BLM signed an agreement with the MBOGC (attached) to share regulatory responsibility on well spacing and the protection of correlative rights. This agreement is still in place today and has worked well for 20 years. Today, the BLM is saying it can't work with State regulatory agencies and has proposed a rule that exceeds its authority and creates over reaching federal oversight when the issue at hand is already regulated by the State. Why is the current administration so reluctant to work with its state-based counterparts?

BLM grossly underestimates the cost to industry of compliance with the proposed rule. Industry analysis shows the rule will cost over \$1.5 BILLION dollars. The BLM has failed to perform the additional review required by federal law and by several Executive Orders for any rule that has an impact in excess \$100 million. It is hard to believe that your analysis can be so grossly underestimated.

MPA is very concerned about the water use and mitigation requirements. The BLM proposal appears to allow BLM staff to direct operators to use, or not use, water from various sources without explaining where the federal government's authority comes from to impose water access limitations or requirements.

MPA requests the BLM to carefully review comments submitted on this proposal and withdraw the proposal to regulate HF operations on federal and tribal lands. Please recall the letter from Montana Governor Brian Schweitzer of June 18, 2012. The Governor stated he was opposed to the adoption of these rules. State regulatory agencies have a strong record of regulating industry operations and this proposed rule creates excessive and burdensome regulation that will not improve on existing state regulation and current industry practice. The rule as proposed will only make lands under its jurisdiction less likely to see oil and gas development.

Regards:



David A. Galt
Executive Director
Montana Petroleum Assn.

cc: Senator Max Baucus
Senator Jon Tester
Congressman Denny Rehberg
Governor Brian Schweitzer